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RAILROAD RETIREMENT AMENDMENTS

REPORT

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 14041

(Including Cost Estimate of the Congressional Budget Office)

SEPTEMBER 2, 1976.—Ordered to be printed

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 94–
2d Session } { 1465 Part I

RAILROAD RETIREMENT AMENDMENTS

SEPTEMBER 2, 1976.—Ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

(Including Cost Estimate of the Congressional Budget Office)

[To accompany H.R. 14041 which on May 26, 1976 was referred jointly to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means]

The Committee on Interstate and Foreign Commerce to whom was referred the bill (H.R. 14041), to amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments, as they appear in the reported bill, are as follows:

1. Page 7, beginning in line 5, strike out "on which such widow's or widower's old-age insurance benefit or disability insurance benefit under the Social Security Act began to accrue" and insert in lieu thereof "beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act".

Page 7, beginning in line 17, strike out "on which such widow's or widower's old-age insurance benefit or disability insurance benefit under the Social Security Act began to accrue" and insert in lieu thereof "beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act".

2. Page 9, line 21, strike out "a rate for each fiscal year" and insert in lieu thereof "an annual rate".

3. Page 10, strike out line 5 and all that follows down through page 12, line 5.

4. Page 12, line 6, strike out "Sec. 5." and insert in lieu thereof "Sec. 4.".

Page 12, beginning in line 14, strike out "dependents, under" and insert in lieu thereof "dependents under".

Page 12, beginning in line 23, strike out "an amount paid as reimbursement or allowance for traveling or other expenses" and insert in lieu thereof "an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses".

Page 13, line 14, strike out "dependents, under" and insert in lieu thereof "dependents under".

Page 13, beginning in line 25, strike out "an amount paid as reimbursement or allowance for traveling or other expenses" and insert in lieu thereof "an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide and necessary expenses".

Committee Amendments

With one exception, all of the Committee amendments described above are technical amendments which merely make drafting changes in the reported bill. The one exception is the amendment numbered 3 above which strikes out section 4 of the bill as introduced and is more fully described below:

Section 4 of the bill, as introduced, would have repealed the provisions of existing law under which an application for a railroad retirement annuity is deemed to be an application for social security benefits. When it is to the advantage of an individual (as it can be in a few cases) not to apply for his social security benefit, existing law allows him to restrict his application to a railroad annuity only. Also, under existing law, if an individual files for a social security benefit and later finds that entitlement to a social security benefit would disadvantage him, he may withdraw his application. In some cases, an individual may not be eligible for a social security benefit at the time he applies for a railroad annuity but may become eligible later. In such cases, the Railroad Retirement Board is required to continue payment of the "windfall" benefit unless the individual files an application for his social security benefit. The repeal of existing law proposed by section 4 of the bill, as introduced, would have required that, in every case, a separate application must be made to the Social Security Administration as a condition for payment of the "windfall" benefit. The Railroad Retirement Board estimated that enactment of the proposed repealer would reduce "windfall" benefits by about $300 thousand per year.

The Committee amendment would delete this provision from the introduced bill. The Committee recommends deleting this section because it appears to provide a doubtful savings to the Railroad Retirement Fund at the expense of older persons who may be ignorant of their rights and fail to file the necessary application with the Social Security Administration. Further, to retain this section would introduce additional complexities to an already complex program. The Committee is also advised that any problems involved in administering those provisions of existing law under which an application for railroad retirement annuity is also deemed to be an application for social security benefits, can be resolved by administrative action.

Committee Action

On June 17, 1976, the Subcommittee on Transportation and Commerce held an open hearing on H.R. 14041. Testimony was received from the Railroad Retirement Board and from representatives of both railroad labor and railroad management, including the Railway Labor Executives Association, the Brotherhood of Railway and Airline Clerks, and the National Railway Labor Conference.

On June 29, 1976, the Subcommittee on Transportation and Commerce held an open markup session and, by voice vote, ordered the bill reported to the full Committee on Interstate and Foreign Commerce with amendments.

On August 24, 1976, the full Committee on Interstate and Foreign Commerce held an open markup session and, by voice vote, ordered the bill reported to the House with the amendments recommended by the Subcommittee.

What the Bill Does

The reported bill would amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and make certain other changes in existing law. This bill was agreed to by representatives of railroad labor and railroad management and is supported by the Railroad Retirement Board.

Under the Railroad Retirement Act of 1974, which became effective on January 1, 1975, it was discovered that some annuitants were entitled to increases that were not intended under the 1974 Act. The first section of the bill is designed to avoid such unintended increases. These benefits have not yet been paid by the Railroad Retirement Board and this section would take effect retroactively as of January 1, 1975. This section would affect an estimated six thousand annuitants and would result in a savings to the Railroad Retirement Fund.

Section 2 of the reported bill is designed to take care of certain widows who are entitled to less benefits as a widow than they were receiving as the spouse of an annuitant. This section would provide, in effect, that the total annuity amount payable to a widow will not be less than the annuity amount which the widow may have received as a spouse in the month preceding the employee's death. This provision is estimated to cost approximately $6 million annually.

Section 3 of the reported bill deals with the payment of supplemental annuities. Supplemental annuities are financed entirely by a separate tax on the railroads which is fixed each calendar quarter. If the tax on a railroad is 11 cents per man hour for three months and that tax is not sufficient to pay the supplemental annuities the tax is adjusted at the beginning of the succeeding quarter to a higher amount, say 12 cents per man hour, in order to generate sufficient revenue to pay the annuities. What this section does is give the Railroad Retirement Board authority to borrow money from the regular Railroad Retirement account to pay any supplemental annuities which may be due and payable and for which insufficient revenue has been generated by the then current tax rate. In other words, it's designed to take care of any shortfall in the supplemental annuity account resulting from a tax rate which is too low. As soon as the higher tax rate has generated sufficient revenue to pay the supplemental annuities,

the amount borrowed from the Railroad Retirement account must be repaid with interest.

The committee has amended the bill to strike out section 4 as it appeared in the introduced bill. Section 4 of the introduced bill dealt with the payment of so-called "windfall" benefits to individuals who are eligible to receive Social Security benefits. Under existing law, windfall benefits are payable to anyone eligible to receive Social Security, whether or not such individual has applied for Social Security benefits. This section would have provided that no windfall benefits would be paid to any individual before he established an entitlement to Social Security benefits, that is, he made a separate application to Social Security for his benefits. The committee has deleted this section of the introduced bill because it appears to provide a savings to the Railroad Retirement Fund at the expense of older persons who may not be aware that they also must apply for Social Security benefits.

Section 4 of the reported bill (section 5 of the bill as introduced) amends both the Railroad Retirement Act of 1974 and the Railroad Retirement Tax Act. It provides, in effect, that amounts paid by a railroad to an employee for sick pay or expense allowance (per diem) will not be treated as compensation for purposes of the Railroad Retirement Tax Act. The Railroad Retirement Board has taken the position that one should look at the entire railroad retirement and unemployment benefits scheme as a whole and, under the language of the Railroad Unemployment Insurance Act (which is financed entirely by a tax on the railroads), unemployment benefits are not treated as compensation. Also, the Board has consistently held that private pay plans for sickness benefits are not counted as compensation for purposes of either the Railroad Retirement Act or the Railroad Retirement Tax Act. The Board feels that the same interpretation should apply to payments made by railroads to their employees for sick pay and expense allowances. There seems to be some doubt on the part of the Internal Revenue Service about the position which the Railroad Retirement Board has taken on this matter. The lack of specific language in the Railroad Retirement Tax Act makes it possible that the Internal Revenue Service could say that such payment should be treated as compensation. This section adds language to the Railroad Retirement Tax Act and the Railroad Retirement Act of 1974, identical to language contained in the Federal Insurance Contributions Act (FICA), which will, in effect, statutorily ratify the Board interpretation.

Background and Need for Legislation

Background of 1974 Railroad Retirement Act

The principal purpose of the 1974 Act was to provide for a complete restructuring of the Railroad Retirement Act of 1937 in order to place it on a sound financial basis. If the existing system had been permitted to continue, the Railroad Retirement System would have been bankrupt by 1981 and there would not have been sufficient funds to pay the then current level of benefits to anyone—past, present, or future beneficiaries of the system.

The principal reason for the financial deficit in the Railroad Retirement Account up to 1974 was the lost reimbursement arising from the

receipt of Social Security benefits by individuals also receiving Railroad Retirement benefits. The problem caused by the payment of dual benefits did not arise overnight. In 1951 a program referred to as financial interchange was created by law, under which the Railroad Retirement System was reinsured with the Social Security System. Under this program, the Railroad Retirement System pays to the Social Security System each year an amount equal to the taxes which would have been paid by all railroad employees (and employers) if all railroad employment had been covered under the Social Security Act. The Social Security System then transfers to the Railroad Retirement System each year an amount equal to the total Social Security benefits which would have been payable to railroad retirement beneficiaries if their railroad service had been covered under the Social Security Act. Since 1951, the Social Security System has paid to the Railroad Retirement System well over $10 billion more than the Railroad Retirement System has paid to Social Security. Because of this reinsurance program, it was possible to maintain railroad retirement benefits at a higher level than would have been possible without the reinsurance program.

When this problem of dual beneficiaries was discussed by a Joint Committee on Railroad Retirement in 1953, approximately 15 percent of Railroad Retirement beneficiaries were also entitled to Social Security benefits. By the time the 1974 legislation was under consideration, approximately 40 percent were entitled to dual benefits.

The Social Security Act prohibits payment of multiple benefits and whenever a railroad retirement beneficiary qualifies for Social Security benefits the amounts otherwise payable to the Railroad Retirement System on account of that beneficiary under the financial interchange program are reduced by the total Social Security benefits received by that beneficiary. The lost reimbursement to the Railroad Retirement System totaled $451 million per year by 1974 and would have bankrupted that System by 1981 if dual benefits had not been phased out by the 1974 Act. A major factor in this lost reimbursement to the Railroad Retirement System is the manner in which benefits are computed under the Social Security Act, which grants proportionately greater benefits to individuals with relatively short periods of covered employment and relatively low wages. In computing amounts to be transferred to the Railroad Retirement System under the financial interchange program, such amounts are computed on the basis of both railroad and non-railroad employment, but when an individual begins to draw Social Security benefits for his non-railroad employment the financial interchange payments to the Railroad Retirement System are reduced by amounts which are disproportionate to his total employment, counting both railroad and non-railroad employment.

It is sometimes argued that phasing out such dual benefits was unfair to railroad employees because there is no restriction upon an individual qualifying for Civil Service or Foreign Service retirement benefits, among others, and full Social Security benefits. The answer to that argument is that none of the other retirement plans was reinsured with the Social Security System as was the case with the Railroad Retirement System under the financial interchange program. There is no restriction on railroad retirement annuitants qualifying for railroad retirement and for full Civil Service or Foreign Service retirement benefits.

Under the restructuring provisions of the 1974 Act, Railroad Retirement benefits consist of two components—the first tier is a benefit computed under the Social Security Act combining all railroad employment with Social Security covered employment and treating the total as if covered by Social Security; and the second tier is a benefit based on railroad employment only computed under the Railroad Retirement Act. This technique provides more coordination between the Railroad Retirement Act and the Social Security Act and prevents the future losses to the Railroad Retirement System which threatened the System with bankruptcy.

Resolution of the dual benefit problem was essential to establish the fiscal soundness of the Railroad Retirement System and to establish equitable retirement benefits for all railroad employees. The most difficult problem involved the manner in which such dual benefits could be phased out on an equitable basis. First, beneficiaries of dual benefits on the retired rolls as of January 1, 1975, continue to receive such benefits in full. Second, employees who did not have enough railroad and non-railroad employment by December 31, 1974, to fully qualify under both systems will not be entitled to a dual benefit. Third, employees who had enough employment to fully qualify under both systems but had not retired before January 1, 1975, were divided into two groups.

The first group consists of employees with a "current connection" with the railroad industry, which means 12 months of railroad service out of the 30 months preceding December 31, 1974, or preceding the date of retirement, and also those employees with 25 years or more of railroad service (even if the latter do not have the "current connection" just described). This group will receive a dual benefit upon retirement, but it will be based only on employment before January 1, 1975.

The second group consists of employees who left railroad service after qualifying for Railroad Retirement benefits (10 years) but without having 25 years of railroad service and who do not have the "current connection" with the railroad industry described above. This group will not receive a dual benefit upon retirement unless they had also fully qualified under Social Security by the close of the year (prior to 1975) during which they left railroad service. If they had so qualified under both systems, they will receive a dual benefit at retirement, but it will be based only on employment before they left railroad service. In effect, a windfall benefit is paid to everyone who qualified for both Railroad Retirement benefits and Social Security benefits before he left railroad employment, but it is not paid to anyone who qualified for Social Security benefits after he left railroad employment.

In addition to reducing some benefits as described above, the 1974 Act also authorized an annual appropriation from the General Fund of the Treasury for each year from fiscal year 1976 through the year 2000. At the time the 1974 Act was under consideration, it was estimated that this would require an annual appropriation of $285 million. This would cover the cost of phasing out dual benefits originally provided by law.

The reported bill merely makes technical changes in the 1974 Act to correct deficiencies discovered by the Railroad Retirement Board. In effect, the technical changes are designed to assure that the original

intent of the Congress in enacting the 1974 Act, briefly described above, is carried out.

Background and need for the reported bill

This bill (H.R. 14041) was agreed to by representatives of railroad labor and railroad management. The primary purpose of the bill is to correct unforeseen inequities which have arisen as a result of the efforts of the Railroad Retirement Board to carry out the provisions of the 1974 Act.

In the course of the administration of the new programs, the Board discovered that, in some cases, individuals may be eligible for increases in their annuities which were in no way foreseen or intended by the 1974 Act. In other cases, some individuals may suffer decreases in their annuities, in contradiction of the express purposes of the 1974 legislation.

Amendments made by the reported bill to correct these inequities, and to make conforming changes in the Railroad Retirement Tax Act, are technical in nature.

All parties are in agreement that the amendments proposed by this bill are urgently needed to correct the deficiencies discovered by the Board.

The basic restructuring of the railroad retirement system provided by the Railroad Retirement Act of 1974 created a two-tier annuity program. Tier–I is basically a social security benefit based on railroad and non-railroad employment and financed by an employer and employee tax equal to the social security payroll tax. Tier–II is essentially an industry annuity program financed by a payroll tax on railroad employers. In order to provide an equitable transition to the new program from the program in existence prior to January 1975 (the effective date of the 1974 Act), the 1974 law provides a series of transitional provisions and grandfather clauses. Under the transitional and grandfather provisions the January 1975 annuities of people on the benefit roll for December 1974, generally, are maintained at the level provided under the laws in effect prior to January 1975. These annuities though were to be recomputed into the two-tier format.

A special problem which the 1974 amendments were designed to solve concerned people who worked in both railroad and non-railroad employment long enough to qualify for benefits under both systems. Because of the relationship between the social security and railroad programs, the payment of these dual benefits resulted in excessive payments to some individuals and caused a severe financial drain on the railroad program. While creating the tier–I benefit under the railroad program was designed to eliminate these dual payments, fairness seemed to require that those who had earned a vested interest in the dual payments should be guaranteed the equity they had earned prior to January 1975. This guaranteed payment is the so-called "windfall" benefit created under the 1974 Act.

As the provisions of the 1974 Act were put into effect, a number of inequities, anomalies, and omissions were discovered. Several of these which, in the opinion of railway labor and management, should be corrected immediately have been identified and included in H.R. 14041, as reported.

The provisions of the reported bill and the recommendations of the Committee are briefly described below.

Elimination of unintended increases

The provisions of the Railroad Retirement Act of 1974 which provide for restructuring the annuities of people who were entitled to annuities at the time of the transition from the old Act to the new law were intended to provide for a restructuring of the annuities into the two-tier format with neither gain nor loss to the individuals involved. However, when the time came to restructure the annuities, it was discovered that in some cases the restructured annuities were significantly larger than the amounts payable under prior law. The Railroad Retirement Board, therefore, has delayed making the recomputation on the theory that Congress did not intend to pay these additional amounts. If the law is not changed, the Board could be required to recompute the annuities and make payments of the additional amounts not intended under the 1974 Act.

The reported bill would amend the 1974 Act so that in these cases the sum of the recomputed tier–I and tier–II payments as of January 1975 would not exceed the amounts payable under prior law. Current and future payments would be increased to take account of general increases in annuities.

The amendment would be effective as of January 1, 1975.

Minimum guarantee for widows

Under the 1974 Act the "windfall" amount is payable to a wife on the basis of her own or her husband's earnings. However, after the husband dies the windfall amount is not payable. And, in some other cases, the annuity paid to a widow will be less than the amount she was paid as a wife.

The reported bill would amend the 1974 Act to provide for the payment of a "windfall" amount to widows and to guarantee that the payment to a widow will not be less than the amount she received as a wife.

The changes would be effective, generally, for months after the month of enactment. This is the only provision of the bill that would have a significant cost. The Railroad Retirement Board estimates the annual cost at $6 million (0.069 percent of taxable payroll). The cost, however, would be paid out of general revenues (rather than from the earmarked payroll tax) under the provisions of the 1974 Act for financing the "windfall" payments. Because the appropriation authority for the "windfall" payments is permanent, no new authorization for appropriations is needed and the additional amounts would be paid out of existing appropriations.

Authority of the Board with respect to supplemental annuity payments

Both the 1974 Act and prior law provide for the payment of a "supplemental annuity". This annuity is payable starting at age 65 to retirees with 25 years of railroad service or at age 60 to those with 30 years of service who retire after July 1, 1974. The maximum supplemental annuity is $43 a month. These annuities are financed on a pay-as-you-go basis by a cent-per-hour tax levied on employers. The tax rate is determined quarterly by the Railroad Retirement Board. The proceeds of the tax are paid into, and the annuities are paid out of, the Railroad Retirement Supplemental Account.

The reported bill would authorize the Railroad Retirement Supplemental Account to borrow, at the going rate of interest, from the

Railroad Retirement Account (the general account into which employer and employee taxes are paid and from which regular annuities are paid). In his prepared statement on this legislation, the Chairman of the Railroad Retirement Board indicated that because the tax rate is determined quarterly, the borrowing authority may not be used but that it is being requested "for safety purposes".

The amendment would be effective on enactment.

Sick pay and travel expenses

The traditional exclusion from the definition of "compensation" under the Railroad Retirement Act and the Railroad Retirement Tax Act of certain sickness payments and travel expenses have become uncertain as the result of recent action by the Internal Revenue Service. Section 4 of the reported bill would provide the same exclusions under the railroad program for these payments as is currently provided similar payments under the social security program.

Because the changes proposed by the introduced bill involved amendments to the Railroad Retirement Tax Act, the bill was referred jointly to the Committees on Interstate and Foreign Commerce and Ways and Means.

Under the Social Security Act (section 209(b)) and the Federal Insurance Contributions Act (Internal Revenue Code of 1954, section 3121(a)(2)), payments (including amounts paid for insurance) to an employee or his dependents because of sickness, accident disability, or for medical and hospital expenses in connection with a sickness or accident disability, are not considered wages for social security purposes when they are made under a plan or system of general applicability. Although exclusion of these payments from the definition of compensation has been the practice under the railroad program, the lack of an explicit provision in the tax and annuity laws had led to some uncertainty as to the treatment which should be afforded payments of this type.

The reported bill would amend the Railroad Retirement Act and the Railroad Retirement Tax Act by excluding from the definition of "compensation" sickness insurance payments. This exclusion would be along the lines of the similar exclusion in the Social Security Act and the Federal Insurance Contributions Act.

There is no explicit provision in the Social Security Act, the Federal Insurance Contributions Act, the Railroad Retirement Act, or the Railroad Retirement Tax Act, governing the treatment of legitimate travel expenses. Under Rev. Rul. 75–279, these expenses are excluded from compensation under the Railroad Act if the railroad employer requires the employee to account for any travel allowance he receives. A similar regulation was in effect for social security tax purposes during the early years of the program but was replaced in 1950 by regulations which exempt travel expenses from the definition of wages when they are identified as such by the employer. Present regulations (26 CFR 31.3121(a)–1(h)) exclude from the definition of taxable wages for social security purposes:

"Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifi-

cally indicating the separate amounts where both wages and expense allowances are combined in a single payment."

The reported bill would amend the Railroad Retirement Act and the Railroad Retirement Tax Act by excluding from the definition of "compensation" certain legitimate travel expenses. The exclusion is similar to the exclusion which applies under present regulations to the taxability of travel expenses for social security purposes.

The amendments would be effective with respect to future tax payments and to prior tax payments for which the statute of limitations has not run (or will run within 6 months after enactment).

Applicability of Section 401 of the Budget Act

During the course of the consideration of this bill by the Subcommittee on Transportation and Commerce, a question was raised concerning the applicability of section 401 of the Budget Act. The question dealt with the applicability of the May 15 reporting deadline applicable to new budget authority and was resolved by the following exchange of correspondence between the Chairman of the Subcommittee on Transportation and Commerce, the Honorable Fred B. Rooney, and the Chairman of the Committee on the Budget, the Honorable Brock Adams, which correspondence indicates that the reported bill is not subject to such reporting deadline:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 9, 1976.

Hon. BROCK ADAMS,
Chairman, Committee on the Budget, U.S. House of Representatives, House Office Building Annex, Washington, D.C.

DEAR BROCK: I want to call your attention to a bill, H.R. 14041, dealing with railroad retirement benefits, which has been ordered reported from the Subcommittee on Transportation and Commerce to the full Committee on Interstate and Foreign Commerce.

The bill contains technical amendments to correct certain inequities discovered by the Railroad Retirement Board in making annuity computations under the railroad retirement legislation enacted in 1974. For example, it was discovered that certain widows ended up receiving lesser benefits as a widow than they had received as a spouse while their husbands were still alive. Section 2 of H.R. 14041 corrects this inequity, which was not intended to result from the 1974 legislation, at an annual cost estimated at $6 million.

I am calling your attention to this matter in your capacity as Chairman of the Committee on the Budget, because a question arose during hearings as to whether this $6 million annual cost to the general fund of the Treasury constitutes new budget authority subject to the May 15 reporting deadline referred to in section 402 of the Congressional Budget Act of 1974.

The General Counsel for the Railroad Retirement Board submitted a memorandum for the record, a copy of which is attached, indicating the opinion that H.R. 14041 falls within the exemption set forth in section 401(d)(1)(B) of the Congressional Budget Act of 1974 because the spending authority is derived from a trust fund which receives 90 percent or more of its funds from taxes and less than 10 percent from the general fund of the Treasury.

In addition, I would like to call your attention to the fact that section 15(d) of the Railroad Retirement Act of 1974 (P. L. 93–445) authorized the appropriation of "such sums as the Board determines to be necessary" for each fiscal year from 1976 through the fiscal year 2000 to pay certain annuities (including that portion of an annuity for a widow or widower computed under section 4(h) of the 1974 Act). Pursuant to this authorization, an appropriation of $250 million from general revenues has been made to the Railroad Retirement Account in 1976. This appropriation is less than 10 percent of total receipts for 1976.

Under the 1974 Act, it was not intended that any railroad retirement benefits be reduced. Under the amendments made by section 2 of H.R. 14041, the inadvertent reduction in benefits received as a widow compared to benefits received as a spouse will be corrected and the preserved minimum benefit for certain widows will be paid from sums appropriated pursuant to the authorization contained in section 15(d) of the Railroad Retirement Act of 1974.

I am sure that a careful analysis of H.R. 14041 will reveal that, in fact, there is no budget problem and that we are merely attempting to carry out the original intent of the 1974 Act.

If I can furnish any additional information to help clarify this issue, please let me know.

Sincerely yours,

FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C., July 27, 1976.

Hon. FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR FRED: This is in response to your letter of July 9th concerning H.R. 14041, which deals with certain railroad retirement benefits.

After careful review of the bill by the Budget Committee staff, it appears that the measure is exempted from the constraints of section 401 of the Budget Act by virtue of the exception for self-financed trust funds in section 401(d)(1)(B). Although the trust fund exception is rather limited, the legislative history of the Budget Act evidences an intent to exclude certain new benefit provisions such as those contained in H.R. 14041 from the requirements of section 401 of the Budget Act.

With warmest regards,

BROCK ADAMS,
Chairman.

COST ESTIMATES

In compliance with clause 7 of rule XIII of the Rules of the House of Representatives, the following statement is made relative to the cost of this legislation:

Section 2 of the reported bill authorizes the payment of increased survivor annuities which are estimated to cost $6 million per year.

This estimate is based on the following projected costs over the next five years: $5.3 million for fiscal 1977; $6.2 million for fiscal 1978; $7 million for fiscal 1979; $7.7 million for 1980; and $8.4 million for fiscal 1981. The $6 million annual cost estimate also takes into account a savings of approximately $900 thousand per year resulting from the provisions of the first section of the reported bill which prevent the annuity of the 1974 Act from being increased to more than the annuity under the 1937 Act for persons on the rolls at the end of 1974.

The authorization for appropriations to meet the additional costs was enacted in the Railroad Retirement Act of 1974 and payments will be made from appropriations already authorized. There will be no additional costs to the Federal Government over and above the amounts already authorized to be appropriated.

In regard to Clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives, the Committee includes the following cost estimate submitted by the Congressional Budget Office relative to the provisions of H.R. 14041:

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

1. Bill number: H.R. 14041.
2. Bill title: Amended Railroad Retirement Act of 1974.
3. Purpose of bill: This bill amends the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases and makes conforming changes in the Railroad Retirement Tax Act.
4. Cost estimate (in millions):

Fiscal year 1977	$4.3
Fiscal year 1978	5.5
Fiscal year 1979	6.7
Fiscal year 1980	7.8
Fiscal year 1981	9.0

5. Basis for estimate: The projected costs for H.R. 14041 make the following assumptions:

(*a*) Section 1 will have no budgetary costs or savings. The unintended increases in some annuities resulting from the 1974 Act were never budgeted and never paid out. Enactment of this bill will give legal status to this policy.

(*b*) Section 2 is a technical adjustment to the present annuity formula for certain categories of persons initially awarded widows' annuities after enactment of the 1974 Act. These people, as a result of (1) a change in status from spouse of an annuitant to widow and (2) a change in the annuity formula calculation, received decreases in monthly benefits. Section 2 restores these benefits to their pre-1974 Act levels.

As a result, three categories of new widows will receive additional monthly benefits:

(1) New widows who were previously under the New Spouse Minimum Provision of the Act will need an average increase of $20 per month. These widows number about 4,000 and will increase by 2,000 annually.

(2) New widows to whom "spouse windfalls" (as defined in the 1974 Act) did not previously apply, will need an average increase of $40 per month. There are 2,500 widows in this category and the number of widows will increase by 1,200 per year.

(3) Widows who were "Dual Railroad Annuitants" (as defined in the 1974 Act), will need an average increase of $50 per month. This category numbers 3,600 and will grow by 200 per year.

The rates of population growth cited above for all three categories remain constant for at least five years. Later, the growth rate of new widows may decline.

The cost estimate for Section 2 is based on the above assumptions. All yearly population increases are net of attrition. The estimate assumes an enactment date of September 1976 with payments beginning the following month. There are no retroactive payments to any of the widows.

(*c*) CBO anticipates no costs associated with other sections of the bill.

6. Estimate comparison: Not Applicable.
7. Previous CBO estimate: None.
8. Estimate prepared by: Deborah Kalcevic (225–4844).
9. Estimate approved by: C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Inflationary Impact Statement

Pursuant to Clause 2(1)(4) of Rule XI of the Rules of the House of Representatives, the Committee makes the following statement in regard to the inflationary impact of the reported bill:

The Committee feels that the enactment of this legislation will have no inflationary impact on prices and costs in the operation of the national economy.

Oversight Findings

In regard to Clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been made by the Committee.

In regard to Clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

Section-by-Section Explanation

SECTION 1(a)(1) OF THE REPORTED BILL

The Railroad Retirement Act of 1974, which was enacted on October 16, 1974, by Public Law 93–445 and which became effective on January 1, 1975, restructured the railroad retirement benefit formulas to provide a social security level annuity component ("tier I"), which is equal to the benefit payable under the Social Security Act formulas on the basis of an employee's combined social security and railroad retirement earnings and service, plus a staff annuity component ("tier II"), which is based on railroad service only. If a railroad

retirement annuitant is also entitled to a benefit under the Social Security Act, the tier I component of his railroad retirement annuity is reduced by the amount of his social security benefit. However, an employee who had a "vested right" to benefits under both the Railroad Retirement Act and the Social Security Act as of January 1, 1975, receives an additional "dual benefit", or "windfall", amount under the 1974 Railroad Retirement Act which is intended to preserve rights to separate dual benefits accrued prior to the effective date of the 1974 Act.

Although railroad retirement annuitants who had been receiving annuities at the time the 1974 Act became effective were provided annuities under the 1974 Act's restructured formulas, it was not intended that any of these employee or spouse annuitants would receive a benefit increase as a result of this change. Thus, in the case of an employee annuitant, paragraph (2) of section 204(a) of Public Law 93–445 provides that, where the employee annuitant is not entitled to a windfall amount, the tier II component of his 1974 Act annuity is to be determined by subtracting the amount of his tier I component from the amount of the annuity which he had been receiving prior to the effective date of the 1974 Act. If the employee annuitant is entitled to a windfall amount, the proviso to paragraph (3) of section 204(a) of Public Law 93–445 provides that the windfall amount is to be adjusted so that his total annuity under the 1974 Act plus his social security benefit will equal the total of his previous railroad retirement annuity plus his social security benefit.

In implementing the provisions of the 1974 Act, it has been discovered that in some cases the tier I annuity components provided by paragraph (1) of section 204(a) of Public Law 93–445 will, by itself, exceed the annuity which the employee had been receiving under the previous Railroad Retirement Act of 1937. For example, in one case where an employee was receiving an annuity under the 1937 Act amounting to $91.75, his tier I annuity component under the 1974 Act, as provided by paragraph (1) of section 204(a), would amount to $141.10. In order to avoid such unintended increases, the first paragraph of section 1(a) of this bill would amend paragraph (1) of section 204(a) to provide that a 1937 Act employee annuitant's tier I component under the 1974 Act for the month of January 1975 could not be higher than the amount of the annuity which he would have received for that month if the 1974 Act had not been enacted.

The language of paragraph (1) of section 204(a) of Public Law 93–445 as amended by the first paragraph of section 1(a) of the bill is also changed by eliminating the provision which states that the tier I component will be reduced by the amount of any monthly insurance benefit to which the employee is "entitled (before any deductions on account of work) under the Social Security Act." In place of this provision, the amended paragraph (1) contains a proviso subjecting the tier I component provided thereunder to section 3(m) of the 1974 Act, which section provides that the tier I component of an employee annuity will be reduced by the amount of any monthly insurance benefit which the employee actually receives under the Social Security Act. This change is technical in nature and is intended merely to clarify the fact that the tier I components of those who had been receiving annuities under the 1937 Act are to be treated in exactly the same manner insofar as these reductions are concerned as the tier I

components of employees whose annuities are first awarded under the 1974 Act. This amendment would not affect the fact that the tier I components of those who had been receiving annuities under the 1937 Act are subject to the earnings limitations contained in section 2(f) of the 1974 Act in the same manner as the tier I components of employees whose annuities are first awarded under the 1974 Act. Thus, the technical change in question will have no affect on the total amount of the annuity which the employee will receive for a particular month.

SECTION 1(a)(2) OF THE REPORTED BILL

The proviso to paragraph (2) of section 204(a) of Public Law 93–445 provides that if an employee's 1937 Act annuity was computed under the social security minimum guaranty provision contained in the first proviso of section 3(e) of the 1937 Act, the amount of such employee's 1937 Act annuity used in computing the tier II component of his 1974 Act annuity will be the amount of the annuity he would have received under the 1937 Act if no other person had been included in the computation of his annuity. Since certain individuals, particularly children of living employees, were not eligible for benefits under the 1937 Act, the annuity payments to some employees under the social security minimum guaranty provision included the amounts which would have been payable to their children under the Social Security Act if railroad service had been creditable thereunder. To include those amounts in determining the permanent base of an employee's annuity would be inappropriate since such amounts would be eliminated from the computation under the guaranty provision when the children attained age 18 or otherwise became ineligible for social security benefits. Thus, the purpose of this proviso was to reduce the employee's 1937 Act annuity, for purposes of computing the permanent tier II portion of his 1974 Act annuity, to the amount he would have received under the 1937 Act if no other person had been included in the annuity computation.

In a few cases, however, it has now been discovered that this proviso, as it presently exists, has the unintended effect of increasing an employee's 1974 Act annuity above the amount that he was receiving under the 1937 Act. Such an increase would occur where a spouse who was receiving both a social security benefit and a railroad retirement spouse's annuity was included in the computation of the social security minimum guaranty amount. In such a case, because the spouse was receiving a railroad retirement annuity, a portion of the guaranty amount was paid to her with the result that the employee's 1937 Act annuity was actually less than the amount which he would have received if no other person had been included in the computation.

The amendment made to paragraph (2) of section 204(a) by the second paragraph of section 1(a) of the bill would assure that the proviso to section 204(a)(2) would not operate to increase an employee's annuity above the amount he was receiving under the 1937 Act. As a result of this amendment, such an employee and his spouse would receive the same annuity amounts in January of 1975 as they would have received if the 1974 Act had not been enacted.

The following example based on an actual case will illustrate the effect of this amendment. Under the 1937 Act the social security mini-

mum guaranty amount payable to an employee and his spouse totaled $403.81, which was reduced by the amount of the spouse's social security benefit of $82.70 to $321.11. This amount, when rounded upward to $321.20, was divided between the two annuitants, with $224.10 being paid to the employee and $97.10 being paid to his spouse. However, if the employee alone had been included in the guaranty computation he would have received $269.20 and, therefore, in accordance with the proviso to section 204(a)(2) as it now exists, his 1974 Act annuity would be increased to that amount. Furthermore, since section 206 of Public Law 93–445 assures that a spouse will not receive less under the 1974 Act than she received under the 1937 Act, her 1974 Act annuity would continue to be payable at the $97.10 rate. Thus, whereas the employee and his spouse had received railroad retirement annuities under the 1937 Act totaling $321.20, under the 1974 Act their annuities would total $366.30. Pursuant to the proposed amendment, this increase would not occur—the employee would continue to receive $224.10 and his spouse would continue to receive $97.10.

SECTION 1(b) OF THE REPORTED BILL

The new subsection (d) which would be added to section 204 of Public Law 93–445 by section 1(b) of the bill would provide that the tier I component provided the employee by section 204(a)(1) as amended by section 1(a)(1) of the bill, would be considered to be the employee's primary insurance amount for purposes of computing the tier I component payable to his spouse under section 4(a) of the Railroad Retirement Act of 1974. This provision would be applicable in cases where the employee was receiving an annuity under the 1937 Act but his spouse first began receiving a spouse's annuity after January 1, 1975, under the 1974 Act. Since the tier I component of a spouse's annuity is, generally speaking, equal to 50 percent of the employee's primary insurance amount, the effect of this provision would be to insure that this relationship between the employee's and his spouse's annuities would exist in cases where the employee's tier I component is limited to the amount of the annuity he was receiving under the 1937 Act. Thus, in the example set forth in discussing the amendment made by section 1(a)(1) of the bill, the employee's tier I component would be $91.75 and his spouse's tier I component would be $45.90. If the provision in question were not enacted, the spouse in this example case would, if her annuity were first awarded under the 1974 Act, receive a tier I component of $70.60.

SECTION 1(c) OF THE REPORTED BILL

The amendments made to paragraph (1) of section 206 of Public Law 93–445 by section 1(c) of the bill accomplish the same purpose with respect to the spouses' annuities payable under the 1974 Act to 1937 Act spouse annuitants as the amendments made to paragraph (1) of section 204(a) by section 1(a)(1) of the bill accomplish with respect to employee annuities. Thus, pursuant to the amended section 206(1) a 1937 Act spouse annuitant's tier I component under the 1974 Act for the month of January 1975 could not be higher than the amount of the annuity which the spouse would have received for that month if the 1974 Act had not been enacted. Furthermore, the elimi-

nation of the reduction language in section 206(1) and the subjection of the tier I component provided thereunder to the reduction provisions of section 4(i)(1) of the 1974 Act would clarify the fact that the tier I components of spouses who had been receiving annuities under the 1937 Act would be treated in exactly the same manner for purposes of the reduction required by section 4(i)(1) as the tier I components of spouses whose annuities are first awarded under the 1974 Act.

SECTION 1(d) OF THE REPORTED BILL

The amendments made by section 1 of this bill would be effective as of January 1, 1975—the date on which the Railroad Retirement Act of 1974 became effective. Since 1937 Act employee and spouse annuitants have not yet been paid the increased amounts which the unamended sections 204 and 206 would have provided, the enactment of these amendments would not result in any reduction in the annuities which the affected persons have been receiving. However, although the basic annuities payable to the persons in question have not been increased, the June 1, 1975 and June 1, 1976 cost-of-living increases in their annuities were computed, and paid, on the basis of the increased basic annuities. Accordingly, in order to avoid overpayments in the annuities which have already been paid, the proviso to section 1(d) provides that those cost-of-living increases are to be computed as if the amendments made by section 1 of the bill had not been enacted.

SECTION 2(a)(1) OF THE REPORTED BILL

The present provisos of section 4(g) of the Railroad Retirement Act of 1974 contain the so-called spouse minimum provisions, which are intended to assure, in cases not otherwise provided for, that the total annuity amounts payable to a widow or widower under the Act will not be less than the annuity amounts which the widow or widower may have received as a spouse in the month preceding the employee's death. In applying the present spouse minimum provisions to specific cases, it has been discovered that despite these provisions a spouse who was entitled to a "windfall" benefit under section 4(e)(3) of the Act solely because she was the wife of an employee vested under both the railroad retirement and social security systems may receive less in widow's benefits under the Act than she received as a spouse prior to the employee's death. Such a result is particularly possible if the widow-spouse is also entitled to an annuity based on her own railroad service and compensation. The amendments made by section 2(a)(1) of the bill would eliminate this possibility.

SECTION 2(a)(2) OF THE REPORTED BILL

The Railroad Retirement Act of 1937 provided a formula for the computation of widows' and widowers' annuities and, in addition, contained a guaranty (the social security minimum guaranty provision) which assured, insofar as widows and widowers were concerned, that a widow's or widower's railroad retirement annuity would not be less than 110 percent of the amount that the widow or widower would have received, as such, on the basis of the deceased railroad employee's combined railroad and nonrailroad earnings, if the em-

ployee's railroad earnings after December 31, 1936, had been covered under the Social Security Act. Since the railroad retirement formula for widows and widowers produced relatively low annuity amounts, virtually all widows and widowers who were not entitled to benefits based on their own earnings records received annuities in the amounts provided by the 110 percent guaranty. However, a widow or widower who received either a railroad retirement annuity or a social security benefit based on her or his own earnings generally was paid a survivor annuity computed under the railroad retirement formula. In the latter type of case, the amount provided by the railroad retirement formula usually exceeded the guaranteed amount because a widow's or widower's benefit under the Social Security Act (on which the guaranty was based) is reduced by the amount of the benefit paid to the widow or widower on the basis of her or his own earnings.

In place of the above-discussed formula and guaranty, the Railroad Retirement Act of 1974 provides widows and widowers with annuities consisting of two components. The first component, provided by section 4(f) of the 1974 Act, is an amount equal to the amount that would have been payable to the widow or widower, as such, under the Social Security Act if the railroad service after 1936 of the employee upon whose earnings her or his annuity is based were included in the term employment as defined in that Act. This component is reduced by the amount of any railroad retirement annuity or social security benefit payable to the widow or widower on the basis of her or his own earnings. The second component of the widow's or widower's annuity is provided by section 4(g) of the 1974 Act and is equal to 30 percent of the first component prior to the above-mentioned reduction; this component is not subject to such a reduction.

As can be readily seen, a widow or widower who would have received a 1937 Act survivor annuity payable under the 110 percent guaranty, i.e., one who is not entitled to a benefit based on her or his own earnings, will receive a higher benefit under the 1974 Act because the two survivor annuity components, combined, in effect, produce a 130 percent guaranty. However, where a widow or widower is entitled to a benefit based on her or his own earnings, the two annuity components provided by the 1974 Act would, after the reduction to the first component, often produce a lower survivor annuity than would have been payable had the railroad retirement formula contained in the 1937 Act continued to be in effect. Although section 4(h) of the 1974 Act provides an additional benefit amount for certain railroad retirement widows and widowers who were fully insured on the basis of their own earnings under the Social Security Act prior to 1975, which amount is intended to preserve "rights" which had "accrued" on the basis of service performed prior to January 1, 1975, no similar benefit amount is provided under present law for such widows and widowers who are also entitled to railroad retirement annuities based on their own railroad earnings.

In order to eliminate this disparity in treatment, section 4(g) of the 1974 Act would be amended by section 2(a) of the bill to provide an increase in the second component of a widow's or widower's annuity in a case where the 1937 Act railroad retirement formula would have produced a larger benefit based on the deceased's service before 1975 than do the 1974 Act formulas after the first component is reduced due

to the widow's or widower's receipt of a railroad retirement employee annuity. This increase would be equal to the difference between (A) the amount of the widow's or widower's insurance annuity under the 1937 Act railroad retirement formula based on the deceased employee's earnings prior to 1975 and (B) the amount of the survivor annuity components payable to the widow or widower, after the first component is reduced due to the widow's receipt of a railroad retirement employee annuity, as of the later of the time the widow's or widower's employee annuity begins to accrue or the time the widow's or widower's survivor annuity begins to accrue. Since the subtractive amount under clause (B) will have been subject to increases up to the time the widow's or widower's employee or survivor annuity begins, the amount computed under clause (A) will also be increased by the percentages of any increases during the period from January 1, 1975, to the date on which the widow's or widower's employee annuity or survivor annuity, whichever is awarded later, begins. The increase in question would only be payable in a case where either the widow or widower or the deceased employee will have completed 10 years of service prior to January 1, 1975.

SECTION 2(b) OF THE REPORTED BILL

As stated in the discussion of the amendment which would be made by section 2(a) of this bill, section 4(h) of the Railroad Retirement Act of 1974 provides a benefit amount for widows or widowers of deceased railroad employees where the deceased employee has performed 10 years of railroad service prior to January 1, 1975, and the widow or widower was fully insured under the Social Security Act based on her or his own earnings and service prior to that date. This benefit amount was intended to compensate for the fact that a widow or widower who is receiving a social security benefit would, in many cases, receive a smaller railroad retirement survivor annuity under the 1974 Act than she or he would have received under the Railroad Retirement Act of 1937.

When the benefit formula contained in section 4(h) is applied to the facts of actual cases, however, the amount produced often fails accurately to reflect the differences between the annuity amounts provided by the two Acts. In many cases, the amount payable under section 4(h) on the basis of service before 1975 is less than the difference between the amount which would have been payable under the 1937 Act based on such service and the amount actually payable under the 1974 Act. In other cases, fewer in number, the amount provided by section 4(h) is greater than this difference.

Because the formula contained in section 4(h) has proved unsatisfactory, section 2(b) of the bill would strike the present provision and substitute a new formula which would more fully effectuate the purpose of the benefit amount provided thereunder. Under the new formula, the additional benefit amount provided the widows and widowers in question (the eligibility requirements would remain the same) would be equal to the difference between (A) the amount of the widow's or widower's insurance annuity which would have been payable under the 1937 Act railroad retirement formula on the basis of the deceased employee's remuneration and service prior to 1975, with this amount being increased by the percentages of benefit in-

creases occurring during the period from January 1, 1975, to the date on which the widow's or widower's survivor annuity or social security benefit, whichever is awarded latest, begins, and (B) the total amount of the two survivor annuity components payable to the widow or widower under the 1974 Act, after reduction due to the receipt of a social security benefit, as of the time the widow's or widower's survivor annuity or social security benefit, whichever is awarded latest, begins. The first proviso to the new section 4(h) would assure that, where the widow or widower had been receiving a "windfall" dual benefit as a spouse under section 4(e)(1) or 4(e)(2) of the 1974 Act, the total annuity amounts, including dual benefit amounts, payable to that widow or widower under the Act will not be less than the annuity amounts, again including dual benefit amounts, which the widow or widower received as a spouse in the month preceding the employee's death.

SECTION 2(C) OF THE REPORTED BILL

The amendments made by sections 2(a) and 2(b) of the bill would be applicable to annuities accruing for months after the month in which the bill is enacted. Since some annuity amounts awarded under the present section 4(h) of the 1974 Act are higher than those which would be payable under the amended section 4(h), the proviso to section 2(c) contains a savings clause which would render the provisions of the amended section 4(h) inapplicable to cases where annuity amounts had been awarded under section 4(h) prior to the effective date of these amendments and the application of the amended section 4(h) would result in a decrease in such amounts.

SECTION 3 OF THE REPORTED BILL

Section 2(b) of the Railroad Retirement Act of 1974 provides supplemental annuities for otherwise qualified employees who have performed at least 25 years of railroad service. Pursuant to section 3(e) of the 1974 Act the monthly amount of a supplemental annuity is $23 plus an additional $4 for each of the employee's years of service in excess of 25, up to a maximum of $43 for those with 30 or more years of service. Payments of supplemental annuities are made only from the Railroad Retirement Supplemental Account, the funds of which are derived almost entirely from taxes imposed by section 3221(c) of the Railroad Retirement Tax Act. The taxes payable under section 3221(c) are levied at a rate, determined on a quarterly basis, which is considered sufficient to provide the funds needed to pay supplemental annuities.

Under present law, if the funds in the Supplemental Account were for any reason insufficient to meet the then current supplemental annuity obligation, the payment of such annuities would have to be suspended until additional taxes creditable to the Account became due. In order to avoid the possibility of any such suspension of supplemental annuity payments, the amendment made by section 3 of the bill would permit the Supplemental Account to borrow enough money from the regular Railroad Retirement Account to continue the payment of supplemental annuities during any period in which the Supplemental Account was otherwise temporarily lacking in funds for this purpose. Any amounts so borrowed would be repaid, with interest,

as soon as the Supplemental Account has been credited with sufficient tax payments to both pay supplemental annuities on a current basis and repay the amount of the loan. Since, as stated, the tax rate under section 3221(c) of the Tax Act is determined on a quarterly basis, any loan to the Supplemental Account could be repaid very quickly because the tax rate for the calendar quarter following the existence of a deficiency in the Supplemental Account's funds could be increased to take account of the deficiency.

SECTION 4 OF THE BILL, AS INTRODUCED

As noted earlier in this report, section 4 of the bill, as introduced, is deleted by Committee amendment because it appears to produce a savings at the expense of older persons who may not be aware of their rights. The following paragraphs describe the provision deleted by Committee amendment.

The Railroad Retirement Act of 1974 provides benefit amounts for retired railroad employees (sections 3(h)(1)–3(h)(4)), their spouses (sections 4(e)(1)–4(e)(3)), and their widows or widowers (section 4(h)) which are intended to compensate for the fact that railroad retirement annuitants with "vested rights" to dual railroad retirement and social security benefits as of the time the 1974 Act became effective on January 1, 1975, receive smaller railroad retirement annuities under the 1974 Act than they would have received under the Railroad Retirement Act of 1937. Under present law, these so-called "windfall" dual benefit amounts become payable as soon as the railroad retirement annuitant meets the minimum qualifications, other than the filing of an application for social security benefits, for the type of social security benefit on which the dual benefit amount is based. However, the annuitant does not suffer any reduction in his railroad retirement annuity until he actually begins receiving a social security benefit.

The amendments which would have been made by section 4(a) of the bill proposed that a dual benefit amount would not be payable for any month prior to the time that the individual actually begins receiving the social security benefit on which it is based. In addition, section 4(b) of the bill would have stricken out the language now contained in section 5(b) of the Act which, unless the applicant specifies otherwise, causes an annuity application filed with the Railroad Retirement Board to be deemed an application for any benefit to which the applicant may be entitled under the Social Security Act.

The amendments which would have been made by section 4(a) of the bill would have been effective as of January 1, 1975—the date on which the Railroad Retirement Act of 1974 became effective. However, pursuant to the first proviso to section 4(c) of the bill, these amendments would not have operated to reduce the amount of any annuity awarded prior to the enactment date of this bill. In addition the second proviso of section 4(c) was intended to insure that an individual who filed an application for a railroad retirement annuity during the period from January 1, 1975 to the enactment date of these amendments would not lose entitlement to a windfall benefit amount for some period of time if he files an application for social security benefits prior to January 1, 1977, and if his failure to earlier apply for social security benefits was based on advice received from a Board employee.

SECTION 4 OF THE REPORTED BILL (SECTION 5 OF THE INTRODUCED BILL)

Payments to an employee pursuant to any nongovernmental plan for sickness insurance are specifically excluded from the compensation base under the Railroad Unemployment Insurance Act. However, there is no specific exclusion of such payments in either the Railroad Retirement Act or the Railroad Retirement Tax Act. The term "compensation" should be construed to have the same meaning under all three statutes and the Railroad Retirement Board has consistently interpreted the Acts in that manner. However, recently the Internal Revenue Service has questioned the tax-free status of such payments under the Railroad Retirement Tax Act. Moreover, under the Federal Insurance Contributions Act (Sec. 3121(a)(2)) and the Federal Unemployment Tax Act (Sec. 3306(b)(2)) any amounts paid to an employee under a plan for payments on account of sickness do not constitute "wages." Sections 4(a) and 4(b) of the reported bill would resolve this matter by adopting language like that of the Federal Insurance Contributions Act and specifically excluding from compensation under the Railroad Retirement Act and the Railroad Retirement Tax Act any money payments received by an employee pursuant to any nongovernmental plan which provides, through the purchase of insurance or otherwise, for benefits in the event of sickness. This would include payments to an employee under a wage continuation plan of the employer for a period of absence from work due to sickness or injury.

Regulations under the Railroad Retirement Tax Act, state a separate rule of accounting applicable to the travel expenses of railroad employees for which no counterpart seems to exist under any other statute and which the Internal Revenue Service now proposes to enforce by including travel allowances of railroad employees in the compensation base for railroad retirement tax purposes unless the employee proves that he actually incurred the expense and accounted for it to his employer.

Railroad employees receive a variety of conservative meal and lodging allowances under the terms of their bargaining agreements. For example, a $2.00 meal allowance is provided to an employee who is tied up at an away-from-home terminal for at least four hours (plus an additional $2.00 in the event of an extra eight hours' holdover) under Section 2 of Article XI of the United States Transportation Union Agreement of January 27, 1972. In general, such allowances almost never exceed an amount the employee might reasonably be expected to spend for the required meals and lodging. Section 4 of the reported bill would amend both the Railroad Retirement Tax Act and the Railroad Retirement Act to make it clear that the railroad retirement tax does not apply to an amount paid as reimbursement or allowance for traveling or other expenses incurred or reasonably expected to be incurred in the business of the employer provided such payment is identified by the employer either by separate payment or by specifically indicating the separate amounts where both wages and expenses reimbursement or allowances are combined in a single payment.

The amendments made to the Railroad Retirement Act by section 4(a) of the reported bill would be effective as of January 1, 1975. The

same amendments made to the Railroad Retirement Tax Act, by section 4(b) of the reported bill, would apply to taxable years ending after December 31, 1953. However, any taxes paid under the Tax Act prior to the enactment date of these amendments would not be affected unless and to the extent that the applicable period for the assessment of tax and the filing of a claim for credit or refund had not expired prior to the date of enactment. Thus, an employee's accrued benefits would not be affected by the provisions of this bill and taxes paid would not be subject to adjustment unless the applicable statutory period of limitations had not expired. If the statutory period for the filing of a claim for refund would otherwise expire within the six-month period following the date of enactment, the bill would extend the applicable period to include such six-month period. The purpose of this provision is to allow additional time for the filing of a claim for refund where the applicable statutory period will expire shortly after the date of enactment.

It is not intended to place any time limit on the assessment of tax or the filing of a claim for refund solely by reason of the provisions of this bill if the applicable period of limitation would not expire prior to six months after the date of enactment.

Changes in Existing Law Made by the Bill, As Reported

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman) :

Public Law 93–445

To amend the Railroad Retirement Act of 1937 to revise the retirement system for employees of employers covered thereunder, and for other purposes

* * * * * * *

TITLE II—TRANSITIONAL PROVISIONS

* * * * * * *

Sec. 204. (a) Every individual who was entitled to an annuity under section 2(a)1, 2(a)2, 2(a)3, 2(a)4, or 2(a)5 of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under paragraph (i), (ii), (iii), (iv), or (v), respectively, of section 2(a)(1) of the Railroad Retirement Act of 1974, beginning January 1, 1975: *Provided, however*, That if an individual who was entitled to an annuity under section 2(a)4 or 2(a)5 of the Railroad Retirement Act of 1974 is age 65 or older, on January 1, 1975, such individual shall be entitled to an annuity under paragraph (i) of section 2(a)(1) of the Railroad Retirement Act of 1974. For purposes of this subsection—

(1) that portion of the individual's annuity as is provided under section 3(a) of the Railroad Retirement Act of 1974 shall

initially be in an amount equal to (*A*) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such individual's annuity as computed under the provisions of section 3(a), and that part of section 3(e) which preceded the first proviso, of the Railroad Retirement Act of 1937 [, less the amount of any monthly insurance benefit to which such individual is actually entitled (before any deductions on account of work) under the Social Security Act;] *or* (*B*), *if less in a case where such individual is not entitled to an annuity amount provided under paragraph* (*3*) *of this subsection, the amount of the annuity under section 2*(*a*) *of the Railroad Retirement Act of 1937* (*before any reduction on account of age and without regard to section 2*(*d*) *of such Act*) *which such individual would have received for the month of January 1975 if this Act had not been enacted: Provided, however, That such annuity amount shall be subject to reduction in accordance with the provisions of section 3*(*m*) *of the Railroad Retirement Act of 1974 in the same manner as other annuity amounts provided under section 3*(*a*) *of the Railroad Retirement Act of 1974;*

(2) that portion of the individual's annuity as is provided under section 3(b)(1) of the Railroad Retirement Act of 1974 shall be in an amount, if any, equal to the amount by which (A) his annuity under section 2(a) of the Railroad Retirement Act of 1937 for the month of December 1974 (before any reduction on account of age and without regard to section 2(d) of such Act) exceeds (B) (i), if such individual is entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of the annuity which would have been provided such individual under paragraph (1) of this subsection (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) for the month of January 1975 if he had no wages or self-employment income under the Social Security Act other than wages derived from service as an employee under the Railroad Retirement Act of 1974 after December 31, 1936, and before January 1, 1975, or (ii), if such individual is not entitled to an annuity amount provided under paragraph (3) of this subsection, the amount of his annuity provided under paragraph (1) of this subsection (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act) for the month of January 1975: *Provided, however,* That if the annuity of any individual under the Railroad Retirement Act of 1937 for the month of December 1974 was computed under the first proviso of section 3(e) of such Act, the annuity of such individual for purposes of clause (A) of this paragraph shall be *no greater than* the annuity which such individual would have received under such Act for the month of December 1974, if no other person had been included in the computation of the annuity of such individual; and

* * * * * * *

(c) An individual who was awarded an annuity under section 2(a) of the Railroad Retirement Act of 1937 shall not be entitled to an annuity amount computed under the provisions of section 3(c) of the Railroad Retirement Act of 1974: *Provided, however,* That the provi-

sions of this subsection shall not be applicable (i) to an individual who will have rendered at least twelve months of service as an employee to an employer (as defined in the Railroad Retirement Act of 1974) after December 31, 1974, or (ii) to an individual who was awarded an annuity under section 2(a)4 or 2(a)5 of the Railroad Retirement Act of 1937 and who recovered from disability and returned to the service of an employer (as defined in the Railroad Retirement Act of 1974) after December 31, 1974.

(d) The annuity amount provided an individual by paragraph (1) of this subsection as increased from time to time shall be deemed to be the primary insurance amount of such individual for purposes of computing the annuity of the spouse of such individual under section 4(a) of the Railroad Retirement Act of 1974.

* * * * * * *

SEC. 206. Every spouse who was entitled to an annuity under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 for the month of December 1974, or who would have been entitled to such an annuity for such month except for the provisions of section 2(d) of such Act, and who would have been entitled to such an annuity for the month of January 1975, if this Act had not been enacted, shall be entitled to an annuity under section 2(c) of the Railroad Retirement Act of 1974, beginning January 1, 1975. For purposes of this section—

[(1) that portion of the spouse's annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse's annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937, less the amount of any wife's insurance benefit or husband's insurance benefit to which such spouse is actually entitled (before any deductions on account of work) under the Social Security Act on the basis of such individual's wages and self-employment income: *Provided, however*, That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Social Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i)(2) of the Railroad Retirement Act of 1974;]

(1) that portion of the spouse's annuity as is provided under section 4(a) of the Railroad Retirement Act of 1974 shall initially be in an amount equal to (A) the amount determined under clause (i) of section 3(a)(6) of the Railroad Retirement Act of 1937 for the purpose of computing the last increase in the amount of such spouse's annuity as computed under the provisions of section 2 of the Railroad Retirement Act of 1937 or (B), if less in a case where such spouse is not entitled to an annuity amount provided by paragraph (3) of this section, the amount of the annuity under section 2(e) or 2(h) of the Railroad Retirement Act of 1937 (before any reduction on account of age and without regard

to section 2(d) of such Act) which such spouse would have received for the month of January 1975 if this Act had not been enacted: Provided, however, That the amount of such annuity shall be subject to reduction in accordance with the provisions of section 202(k) or 202(q) of the Socal Security Act, other than a reduction on account of age, in the same manner as any wife's insurance benefit or husband's insurance benefit payable under section 202 of the Social Security Act and shall also be subject to reduction in accordance with the provisions of section 4(i) of the Railroad Retirement Act of 1974;

* * * * * * *

RAILROAD RETIREMENT ACT OF 1974

* * * * * * *

DEFINITIONS

SECTION 1. For the purposes of this Act—

(a) (1) The term "employer" shall include—* * *

* * * * * * *

(h) (1) * * *

* * * * * * *

(6) Notwithstanding the provisions of the preceding subdivisions of this subsection, the term "compensation" shall not include—

(i) tips, except as is provided under subdivision (3) of this subsection;

(ii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of any tax now or hereafter imposed with respect to the compensation of such employee;

(iii) remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose specified in subparagraph (F) or (J), as the case may be;

(iv) remuneration earned in the service of a local lodge or division of a railway-labor-organization employer with respect to any calendar month in which the amount of such remuneration is less than $25; [and]

(v) remuneration for service as a delegate to a national or international convention of a railway-labor-organization employer if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his "years of service"[.];

(vi) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a

class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness, or accident disability or medical or hospitalization expenses in connection with sickness or accident disability; and

(vii) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.

* * * * * * *

COMPUTATION OF SPOUSE AND SURVIVOR ANNUITIES

SEC. 4. (a) (1) * * *

* * * * * * *

(g) The annuity of a survivor of a deceased employee determined under subsection (f) of this section shall, with respect to any month, be increased by an amount equal to 30 per centum of the amount of the annuity (before any deductions on account of work) to which such survivor is entitled for such month under the provisions of subsection (f) of this section, or to which such survivor would have been entitled for such month under such subsection if such survivor were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act: *Provided, however, That if a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act and if either such widow or widower or such deceased employee will have completed ten years of service prior to January 1, 1975, the amount of the annuity of such widow or widower under the preceding provisions of this subsection shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to subsection (i)(2) of this section but before any deductions on account of work) under the preceding provisions of this subsection and subsection (f) of this section as of the later of the date on which such widow's or widower's annuity under section 2(a)(1) of this Act began to accrue or the date on which such widow's or widower's annuity under section 2(d)(1) of this Act*

began to accrue: Provided further, That, if a widow or widower of a deceased employee is not entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause the total of the annuity amounts to which such widow or widower is entitled (before any deductions on account of work) under this subsection and subsection (f) of this section to equal the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections [(a) and (b)] *(a), (b), and (e)(3)* of this section (after any reduction on account of age) in the month preceding the employee's death: *Provided further*, That, if a widow or widower of a deceased employee is entitled to an annuity under section 2(a)(1) of this Act or to an old-age insurance benefit or a disability insurance benefit under the Social Security Act, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act or subsection (i)(2) of this section but before any deductions on account of work) under this subsection and subsection (f) of this section to equal (B)(i) the total of the annuity amounts, if any, to which such widow or widower was entitled (or would have been entitled except for the provisions of sections 2(e) and 2(f) of this Act) as a spouse under subsections [(a) and (b)] *(a), (b), and (e)(3)* of this section (after any reduction on account of age) in the month preceding the employee's death less (ii), if such widow or widower is entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act but was not entitled to such a benefit in the month preceding the employee's death, the amount by which the annuity amount payable under subsection (a) of this section to such widow or widower as a spouse in the month preceding the employee's death would have been reduced by reason of section 202(k) or 202(q) of the Social Security Act if such widow or widower had been entitled to an old-age insurance benefit or a disability insurance benefit under the Social Security Act in the month preceding the employee's death in an amount equal to the amount of such benefit at the time such benefit first began to accrue to such widow or widower.

[(h)(1) The amount of the annuity of the widow or widower of a deceased employee determined under subsections (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the sum of (i) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior

to January 1, 1975, and (ii) the primary insurance amount to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of her or his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, exceeds (B) 130 per centum of the amount of the widow's or widower's insurance benefit to which such widow or widower would have been entitled, upon attaining age 65, under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of the deceased employee's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and before January 1, 1975, if the deceased employees' service as an employee after December 31, 1936, and before January 1, 1975, had been included in such employment and if such widow or widower were entitled to no other monthly benefit under section 2 of this Act or under the Social Security Act.

[(2) The amount determined under the provisions of subdivision (1) of this subsection shall be increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased, or would have been increased had there been no general benefit increase under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act, during the period from January 1, 1975, to the earlier of the date of the deceased employee's death or the date on which the deceased employee's annuity under section 2(a)(1) of this Act began to accrue.**]**

(h) The amount of the annuity of the widow or widower of a deceased employee determined under subsection (f) and (g) of this section, if such deceased employee will have completed ten years of service prior to January 1, 1975, and such widow or widower will have been permanently insured under the Social Security Act on December 31, 1974, shall be increased by an amount equal to the amount, if any, by which (A) the widow's or widower's insurance annuity to which such widow or widower would have been entitled, upon attaining age 65, under section 5(a) of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 (without regard to the proviso of that section or the first proviso of section 3(e) of that Act), on the basis of the deceased employee's remuneration and service prior to January 1, 1975, increased by the same percentage, or percentages, as widow's and widower's insurance benefits under section 202 of the Social Security Act are increased during the period from January 1, 1975, to the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act, exceeds (B) the total of the annuity amounts to which such widow or widower was entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section as of the later of the date on which such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue or the date

beginning the first month for which such widow or widower is entitled to an old-age insurance benefit or disability insurance benefit under the Social Security Act: Provided, however, That, if a widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) to an annuity amount under subdivision (1) or (2) of subsection (e) of this section in the month preceding the employee's death, the amount of the annuity to which such widow or widower is entitled under this subsection shall not be less than an amount which would cause (A) the total of the annuity amounts to which such widow or widower is entitled (after any reductions pursuant to section 202(k) or 202(q) of the Social Security Act but before any deductions on account of work) under subsections (f) and (g) of this section and the preceding provisions of this subsection as of the date such widow's or widower's annuity under section 2(d)(1) of this Act began to accrue to equal (B) the total of the annuity amounts to which such widow or widower was entitled (or would have been entitled except for the provisions of section 2(e) or 2(f) of this Act) as a spouse under subsections (a), (b), and (e) of this section (after any reductions on account of age) in the month preceding the employee's death.

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RAILROAD RETIREMENT ACCOUNT

SEC. 15. (a) * * *

* * * * * * *

(c) The Railroad Retirement Supplemental Account established by section 15(b) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. There is hereby appropriated to such account for each fiscal year, beginning with the fiscal year ending June 30, 1975 out of any moneys in the Treasury not otherwise appropriated, to provide for the payment of supplemental annuities under section 2(b) of this Act, and to provide for the expenses necessary for the Board in the administration of the payment of such supplemental annuities, an amount equal to such portions of the amounts covered into the Treasury (minus refunds) during each fiscal year under sections 3211(b), 3221(c), and 3221(d) of the Railroad Retirement Tax Act as are not appropriated to the Railroad Retirement Account pursuant to the provisions of subsection (a) of this section. *Whenever the Board finds at any time that the balance in the Railroad Retirement Supplemental Account will be insufficient to pay the supplemental annuities which it estimates are due, or will become due, under section 2(b) of this Act, it shall request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of such supplemental annuities, and the Secretary shall make such transfer. Whenever the Board finds that the balance in the Railroad Retirement Supplemental Account, without regard to the amounts transferred pursuant to the next preceding sentence, is sufficient to pay such supplemental annuities, it shall request the Secretary of the Treasury to retransfer from the Railroad Retirement Supple-*

mental Account to the credit of the Railroad Retirement Account such moneys as in its judgment are not needed for the payment of such supplemental annuities, plus interest at an annual rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer.

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INTERNAL REVENUE CODE OF 1954

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Subtitle C—Employment Taxes

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CHAPTER 22—RAILROAD RETIREMENT TAX ACT

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Subchapter D—General Provisions

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SEC. 3231. DEFINITIONS.

(a) EMPLOYER.—For purposes of this chapter, the term "employer" means any carrier (as defined in subsection (g)), and any company which is directly or indirectly owned or controlled by one or more such carriers or under common control therewith, and which operates any equipment or facility or performs any service (except trucking service, casual service, and the casual operation of equipment or facilities) in connection with the transportation of passengers or property by railroad, or the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad, and any receiver, trustee, or other individual or body, judicial or otherwise, when in the possession of the property or operating all or any part of the business of any such employer; except that the term "employer" shall not include any street, interurban, or suburban electric railway, unless such railway is operating as a part of a general steam-railroad system of transportation, but shall not exclude any part of the general steam-railroad system of transportation now or hereafter operated by any other motive power. The Interstate Commerce Commission is hereby authorized and directed upon request of the Secretary or his delegate, or upon complaint of any party interested, to determine after hearing whether any line operated by electric power falls within the terms of this exception. The term "employer" shall also include railroad associations, traffic associations, tariff bureaus, demurrage bureaus, weighing and inspection bureaus, collection agencies and other associations, bureaus, agencies, or organizations controlled and maintained wholly or principally by two or more employers as hereinbefore defined and engaged in the performance of services in connection with or incidental to railroad transportation; and railway labor organizations, national in scope, which have been or

may be organized in accordance with the provisions of the Railway Labor Act, as amended (44 Stat. 577; 45 U.S.C., chapter 8), and their State and National legislative committees and their general committees and their insurance departments and their local lodges and divisions, established pursuant to the constitutions and bylaws of such organizations. The term "employer" shall not include any company by reason of its being engaged in the mining of coal, the supplying of coal to an employer where delivery is not beyond the mine tipple, and the operation of equipment or facilities therefor, or in any of such activities.

(b) EMPLOYEE.—For the purpose of this chapter, the term "employee" means any individual in the service of one or more employers for compensation; except that the term "employee" shall include an employee of a local lodge or division defined as an employer in subsection (a) only if he was in the service of or in the employment relation to a carrier on or after August 29, 1935. An individual shall be deemed to have been in the employment relation to a carrier on August 29, 1935, if—

(1) he was on that date on leave of absence from his employment, expressly granted to him by the carrier by whom he was employed, or by a duly authorized representative of such carrier, and the grant of such leave of absence was established to the satisfaction of the Railroad Retirement Board before July 1947; or

(2) he was in the service of a carrier after August 29, 1935, and before January 1946 in each of 6 calendar months, whether or not consecutive; or

(3) before August 29, 1935, he did not retire and was not retired or discharged from the service of the last carrier by whom he was employed or its corporate or operating successor, but—

(A) solely by reason of his physical or mental disability he ceased before August 29, 1935, to be in the service of such carrier and thereafter remained continuously disabled until he attained age 65 or until August 1945, or

(B) solely for such last stated reason a carrier by whom he was employed before August 29, 1935, or a carrier who is its successor did not on or after August 29, 1935, and before August 1945 call him to return to service, or

(C) if he was so called he was solely for such reason unable to render service in 6 calendar months as provided in paragraph (2); or

(4) he was on August 29, 1935, absent from the service of a carrier by reason of a discharge which, within 1 year after the effective date thereof, was protested, to an appropriate labor representative or to the carrier, as wrongful, and which was followed within 10 years of the effective date thereof by his reinstatement in good faith to his former service with all his seniority rights;

except that an individual shall not be deemed to have been on August 29, 1935, in the employment relation to a carrier if before that date he was granted a pension or gratuity on the basis of which a pension was awarded to him pursuant to section 6 of the Railroad Retirement Act of 1937 (50 Stat. 312; 45 U.S.C. 228f); or if during the last payroll period before August 29, 1935, in which he rendered service to a carrier he was not in the service of any employer, in accordance with subsection (d), with respect to any service in such payroll period, or if he could have been in the employment relation to an employer only by

reason of his having been, either before or after August 29, 1935, in the service of a local lodge or division defined as an employer in subsection (a). The term "employee" includes an officer of an employer. The term "employee" shall not include any individual while such individual is engaged in the physical operations consisting of the mining of coal, the preparation of coal, the handling (other than movement by rail with standard railroad locomotives) of coal not beyond the mine tipple, or the loading of coal at the tipple.

(c) EMPLOYEE REPRESENTATIVE.—For purposes of this chapter, the term "employee representative" means any officer or official representative of a railway labor organization other than a labor organization included in the term "employer" as defined in subsection (a), who before or after June 29, 1937, was in the service of an employer as defined in subsection (a) and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act (44 Stat. 577; 45 U.S.C., chapter 8), as amended, and any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his office.

(d) SERVICE.—For purposes of this chapter, an individual is in the service of an employer whether his service is rendered within or without the United States, if—

(1) he is subject to the continuing authority of the employer to supervise and direct the manner of rendition of his service, or he is rendering professional or technical services and is integrated into the staff of the employer, or he is rendering, on the property used in the employer's operations, other personal services the rendition of which is integrated into the employer's operations, and

(2) he renders such service for compensation;

except that an individual shall be deemed to be in the service of an employer, other than a local lodge or division or a general committee of a railway-labor-organization employer, not conducting the principal part of its business in the United States, only when he is rendering service to it in the United States; and an individual shall be deemed to be in the service of such a local lodge or division only if—

(3) all, or substantially all, the individuals constituting its membership are employees of an employer conducting the principal part of its business in the United States; or

(4) the headquarters of such local lodge or division is located in the United States;

and an individual shall be deemed to be in the service of such a general committee only if—

(5) he is representing a local lodge or division described in paragraph (3) or (4) immediately above; or

(6) all, or substantially all, the individuals represented by it are employees of an employer conducting the principal part of its business in the United States; or

(7) he acts in the capacity of a general chairman or an assistant general chairman of a general committee which represents individuals rendering service in the United States to an employer, but in such case if his office or headquarters is not located in the United States and the individuals represented by such general committee are employees of an employer not conducting the principal part of its business in the United States, only such proportion of the re-

muneration for such service shall be regarded as compensation as the proportion which the mileage in the United States under the jurisdiction of such general committee bears to the total mileage under its jurisdiction, unless such mileage formula is inapplicable, in which case such other formula as the Railroad Retirement Board may have prescribed pursuant to section 1(c) of the Railroad Retirement Act of 1937 (50 Stat. 308; 45 U.S.C. 228a) shall be applicable, and if the application of such mileage formula, or or such other formula as the Board may prescribe, would result in the compensation of the individual being less than 10 percent of his remuneration for such service, no part of such remuneration shall be regarded as compensation;

Provided however, That an individual not a citizen or resident of the United States shall not be deemed to be in the service of an employer when rendering service outside the United States to an employer who is required under the laws applicable in the place where the service is rendered to employ therein, in whole or in part, citizens or residents thereof; and the laws applicable on August 29, 1935, in the place where the service is rendered shall be deemed to have been applicable there at all times prior to that date.

(e) COMPENSATION.—For purposes of this chapter—

(1) The term "compensation" means any form of money remuneration paid to an individual for services rendered as an employee to one or more employers. Such term does not include [tips (except as is provided under paragraph (3)), or the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201.] *(i) the amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability, (ii) tips (except as is provided under paragraph (3)), (iii) the voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201, or (iv) an amount paid specifically—either as an advance, as reimbursement or allowance—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.* Such term does not include remuneration for service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or (J) of section 101(a)(15) of the Immigration and Nationality Act, as amended, and which is performed to carry out the purpose speci-

fied in subparagraph (F) or (J), as the case may be. Compensation which is earned during the period for which the Secretary or his delegate shall require a return of taxes under this chapter to be made and which is payable during the calendar month following such period shall be deemed to have been paid during such period only. For the purpose of determining the amount of taxes under sections 3201 and 3221, compensation earned in the service of a local lodge or division of a railway-labor-organization employer shall be disregarded with respect to any calendar month if the amount thereof is less than $25. Compensation for service as a delegate to a national or international convention of a railway labor organization defined as an "employer" in subsection (a) of this section shall be disregarded for purposes of determining the amount of taxes due pursuant to this chapter if the individual rendering such service has not previously rendered service, other than as such a delegate, which may be included in his "years of service" for purposes of the Railroad Retirement Act.

(2) An employee shall be deemed to be paid compensation in the period during which such compensation is earned only upon a written request by such employee, made within six months following the payment, and a showing that such compensation was earned during a period other than the period in which it was paid. An employee shall be deemed to be paid "for time lost" the amount he is paid by an employer with respect to an identifiable period of absence from the active service of the employer, including absence on account of personal injury, and the amount he is paid by the employer for loss of earnings resulting from his displacement to a less remunerative position or occupation. If a payment is made by an employer with respect to a personal injury and includes pay for time lost, the total payment shall be deemed to be paid for time lost unless, at the time of payment, a part of such payment is specifically apportioned to factors other than time lost, in which event only such part of the payment as is not so apportioned shall be deemed to be paid for time lost.

(3) Solely for purposes of the tax imposed by section 3201 and other provisions of this chapter insofar as they relate to such tax, the term "compensation" also includes cash tips received by an employee in any calendar month in the course of his employment by an employer unless the amount of such cash tips is less than $20.

(f) COMPANY.—For purposes of this chapter, the term "company" includes corporations, associations, and joint-stock companies.

(g) CARRIER.—For purposes of this chapter, the term "carrier" means an express company, sleeping-car company, or carrier by railroad, subject to part I of the Interstate Commerce Act (49 U.S.C., chapter 1).

(h) TIPS CONSTITUTING COMPENSATION, TIME DEEMED PAID.—For purposes of this chapter, tips which constitute compensation for purposes of the tax imposed under section 3201 shall be deemed to be paid at the time a written statement including such tips is furnished to the employer pursuant to section 6053(a) or (if no statement including such tips is so furnished) at the time received; and tips so deemed to be paid in any month shall be deemed paid for services rendered in such month.

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AGENCY COMMENTS

RAILROAD RETIREMENT BOARD,
Chicago, Ill., June 11, 1976.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is the report of the Railroad Retirement Board on H.R. 14041, which you introduced on May 26, 1976. The bill, which railroad labor and management have agreed to support, would amend the Railroad Retirement Act of 1974 with respect to the computation of annuity amounts in certain cases, and make certain other changes in the law.

Railroad retirement annuitants who had been receiving annuities at the time the Railroad Retirement Act of 1974 became effective (Jan. 1, 1975) are provided annuities under the 1974 act's restructured formulas. In some cases the tier I annuity component of these annuities provided by Public Law 93–445 will, by itself, exceed the annuity which the employee had been receiving under the previous Railroad Retirement Act of 1937. To avoid such unintended increases, the first paragraph of section 1(a) of H.R. 14041 would amend paragraph (1) of section 204(a) of Public Law 93–445 to provide that a 1937 act employee annuitant's tier I component under the 1974 act for the month of January 1975 could not be higher than the amount of the annuity which he would have received for that month if the 1974 act had not been enacted.

The bill would further amend the language of paragraph (1) of section 204(a) of Public Law 93–445 to clarify that tier I components of annuities payable to those who had been receiving annuities under the 1937 act are to be treated in exactly the same manner insofar as reductions for social security benefits are concerned as the tier I components of employees whose annuities are first awarded under the 1974 act. The technical change in question would have no effect on the total amount of an individual's annuity.

Section 1(a)(2) of the bill would amend paragraph (2) of section 204(a). That section now provides that if an employee's 1937 act annuity was computed under the social security minimum guaranty provision contained in the first proviso of Section 3(e) of the 1937 Act, the amount of such employee's 1937 Act annuity used in computing the tier II component of his 1974 act annuity will be the amount of the annuity he would have received under the 1937 act if no other person had been included in the computation of his annuity. The purpose of this proviso was to reduce the employee's 1937 Act annuity, for purposes of computing the permanent tier II portion of his 1974 act annuity, to the amount he would have received under the 1937 act if no other person had been included in the annuity computation. It has been discovered that this proviso, as it presently exists, has the unintended effect of increasing certain employees' 1974 Act annuities above the amount that they were receiving under the 1937 Act. This would occur where a spouse who was receiving both a social security benefit and a railroad retirement spouse's annuity was included in the computation of the social security minimum guaranty amount. In such a case, because the spouse was receiving a social security benefit, the annuities were paid under the regular formulas with the result that

the employee's 1937 act annuity was actually less than the amount which he would have received under the minimum guaranty if no other person had been included in the computation. The amendment made by section 1(a) of the bill would assure that the proviso to section 204(a)(2) would not operate to increase an employee's annuity above the amount he was receiving under the 1937 act. As a result of this amendment, such an employee and his spouse would receive the same annuity amounts in January of 1975 as they would have received if the 1974 Act had not been enacted.

Section 1(b) of the bill provides that the tier I component provided the employee by section 204(a)(1), as amended by section 1(a)(1) of the bill, would be considered to be the employee's primary insurance amount for purposes of computing the tier I component payable to his spouse in cases where the employee was receiving an annuity under the 1937 act but his spouse first began receiving a spouse's annuity under the 1974 act.

Section 1(c) of the bill would amend paragraph (1) of section 206 of Public Law 93–445 to accomplish the same purpose with respect to the spouses' annuities as the amendments made to paragraph (1) of section 204(a) by the bill would accomplish with respect to employee annuities.

Section 1(d) of the bill provides that the amendments made by section 1 of the bill would be effective as of January 1, 1975. The 1974 act annuities have not yet been paid under the unamended sections 204 and 206; therefore, enactment of these amendments would not result in any reduction in the annuities. However, the June 1, 1975, and June 1, 1976, cost-of-living increases in these annuities were based on the higher computations. To avoid overpayments in these cases, the proviso to section 1(d) provides that those cost-of-living increases are to be computed as if the amendments made by section 1 of the bill had not been enacted.

Section 4(g) of the Railroad Retirement Act of 1974 contains the so-called spouse minimum provisions which assure, in cases not otherwise provided for, that the total annuity amounts payable to a widow or widower under the act will not be less than the annuity amounts which the widow or widower may have received as a spouse in the month preceding the employee's death. Despite these provisions, a spouse who was entitled to a "windfall" benefit as the wife of a "vested" employee may receive less in widow's benefits under the act than she received as a spouse prior to the employee's death. Such a result is particularly possible if the widow-spouse is also entitled to an annuity based on her own railroad service and compensation. Section 2(a)(1) of the bill would eliminate this possibility.

Section 2(a) of the bill would provide an increase in the second component of a widow's or widower's annuity in a case where the 1937 act railroad retirement formula would have produced a larger benefit based on the deceased's service before 1975 than do the 1974 act formulas after the first component is reduced due to the widow's or widower's receipt of a railroad retirement employee annuity. The increase in question would only be payable in a case where either the widow or widower or the deceased employee will have completed 10 years of service prior to January 1, 1975.

Section 4(h) of the Railroad Retirement Act of 1974 provides a benefit amount for widows and widowers which is intended to com-

pensate for the fact that a widow or widower who is receiving a social security benefit would, in many cases, receive a smaller railroad retirement survivor annuity under the 1974 act than she or he would have received under the Railroad Retirement Act of 1937. However, the benefit formula contained in Section 4(h) often fails to accurately reflect the differences between the annuity amounts provided by the two Acts. In many cases, the amount payable is less than the difference, and in other cases, fewer in number, the amount is greater.

Section 2(b) of the bill would substitute a new Section 4(h) formula which would assure that, where the widow or widower had been receiving a "windfall" dual benefit as a spouse under Section 4(e)(1) or 4(e)(2) of the 1974 Act, the total annuity amounts, including windfall amounts, payable to that widow or widower under the act will not be less than the annuity amounts, again including windfall amounts, which the widow or widower received as a spouse in the month preceding the employee's death.

The amendments made by sections 2(a) and 2(b) of the bill would be applicable to annuities accruing for months after the month in which the bill is enacted; the provisions of the amended Section 4(h) would not be applicable to cases where annuity amounts had been awarded prior to the effective date.

Section 2(b) of the Railroad Retirement Act of 1974 provides supplemental annuities to qualified employees which are paid out of the Railroad Retirement Supplemental Account. Under present law, if the funds in the supplemental account were for any reason insufficient to meet the then current supplemental annuity obligation, the payment of such annuities would have to be temporarily suspended. In order to avoid this possibility, section 3 of the bill would amend the law to permit the Supplemental Account to borrow enough money from the regular Railroad Retirement Account to continue the payment of supplemental annuities during any period in which the supplemental account was otherwise temporarily lacking in funds. Any amounts so borrowed would be repaid, with interest, as soon as the supplemental account has been credited with sufficient tax payments to both pay supplemental annuities on a current basis and repay the amount of the loan. Since the supplemental annuity tax rate is adjusted quarterly, any loan to the supplemental account could be repaid very quickly.

The Railroad Retirement Act of 1974 provides benefit amounts for retired railroad employees, their spouses, and their widows or widowers, which are intended to preserve their "vested rights" to dual railroad retirement and social security benefits based on service prior to 1975. Section 4(a) of the bill would amend the law to provide that a windfall amount would not be payable for any month prior to the time that the individual actually begins receiving the social security benefit on which it is based. Section 4(b) of the bill would strike out the language now contained in Section 5(b) of the Act which, unless the applicant specifies otherwise, causes an annuity application filed with the Railroad Retirement Board to be deemed an application for any benefit to which the applicant may be entitled under the Social Security Act.

Section 4(c) of the bill provides that the amendments made by section 4(a) would be effective as of January 1, 1975; however, annuitants who have been awarded windfall dual benefit amounts will continue to receive such amounts even if they have not begun receiving social security benefits. In addition, an individual who filed an application for a railroad retirement annuity during the period from January 1, 1975, to the enactment date of these amendments would not lose entitlement to a windfall benefit amount for some period of time if he files an application for social security benefits prior to January 1, 1977, and if his failure to earlier apply for social security benefits was based on advice received from a Board employee.

Section 5 of the bill would amend section 1(h)(6) of Public Law 93–445 and section 3231(e) of the Internal Revenue Code, both of which sections define the term "compensation." Payments to an employee pursuant to any nongovernmental plan for sickness insurance are specifically excluded from the compensation base under the Railroad Unemployment Insurance Act. There is no specific exclusion of such payments in either the Railroad Retirement Act or the Railroad Retirement Tax Act. The term "compensation" should be construed to have the same meaning under all three statutes and the Railroad Retirement Board has consistently interpreted the Acts in that manner. Under the Federal Insurance Contributions Act (sec. 3121(a)(2)) and the Federal Unemployment Tax Act (sec. 3306(b)(2)) any amounts paid to an employee under a plan for payments on account of sickness, regardless of their form or nature, do not constitute "wages." Sections 5(a) and 5(b) of the bill would clarify this matter by adopting the language of the Federal Insurance Contributions Act and specifically excluding from compensation under the Railroad Retirement Act and the Railroad Retirement Tax Act any money payments received by an employee pursuant to any nongovernmental plan which provides sickness benefits. This would include payments to an employee under a wage continuation plan of the employer for a period of absence from work due to sickness or injury.

Travel expenses legitimately incurred by an employee in the course of his employer's business for which he is reimbursed by his employer do not constitute taxable income, wages, or remuneration for purposes of any federal taxing statute. Regulations under the Railroad Retirement Tax Act, however, state a separate rule of accounting applicable to the travel expenses of railroad employees for which no counterpart exists under any other statute. Section 5 of the bill would amend both the Railroad Retirement Tax Act and the Railroad Retirement Act to make it clear that the railroad retirement tax does not apply to an amount paid as reimbursement or allowance for traveling or other expenses incurred or reasonably expected to be incurred in the business of the employer provided such payment is identified by the employer either by separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.

Section 5(c)(1) of the bill provides effective dates for changes made by section 5, and sets forth the statutory periods for filing claims for refunds. Since the amendments to be made by this bill are intended to clarify and affirm existing law, adjustments in tax liabilities are allowed to the extent permitted by the applicable period of limitations.

Effects on the Financial Condition of the System

The five proposals listed below have an effect on costs:

1. Changes to prevent the 1974 Act annuity from being more than the 1937 Act annuity for persons on the rolls at the end of 1974.
2. The "equalizer" for a widow who is also a railroad employee.
3. Including the windfall and equalizer in the guaranty in some situations.
4. New windfall formula for widows.
5. Windfall paid only to a person who files for a social security benefit.

The estimated costs or savings for these proposals are:

Item No.	Level annual cost (millions)			Percent of payroll		
	Tier I	Tier II	Windfall	Tier I	Tier II	Windfall
1	−$0.9	[1]	0	−0.010	[1]	0
2	0	$0.1	0	0	0.001	0
3	0	[1]	0	0	[1]	0
4	0	0	$6.0	0	0	0.069
5	0	0	[3] −.3	0	0	[3] −.003
Total	−.9	.1	5.7	−.010	.001	.066

[1] Means a saving of less than 0.001 percent of payroll.
[2] Means a cost of less than 0.001 percent of payroll.
[3] The savings could be much larger, possibly as much as $6,000,000 annually, if there are large numbers of people who will not file with social security under any circumstances.

Note: A minus sign means a saving to the fund, plus means a cost.

Views of the Board

Views of the Chairman, James L. Cowen

The Chairman, Mr. James L. Cowen, feels that this bill should have serious consideration because it was agreed to by railway labor and management. However, he would like to make sure that people are aware of some points in the bill, and these are spelled out below:

1. The guaranty that a woman cannot receive less as a widow than she was receiving as a wife just prior to her husband's death as provided for in section 2(a)(1) of the bill (which includes the wife's windfall based on the employee's dual benefit in the guarantee) is subject to erosion since the guaranteed amount does not change, whereas the regular formulas are subject to automatic cost-of-living increases.

2. The provision in section 2(a)(2) of the bill which provides an additional amount similar to the windfall for women who were both railroad retirement primary beneficiaries and railroad retirement wives will be financed out of regular railroad retirement taxes and not out of general funds as would be the case where her own employment was covered by social security rather than railroad retirement.

3. The provision changing the method of computing the windfall for widows would be beneficial to some women and detrimental to others.

4. The provision requiring that an individual file at Social Security in order to be paid the windfall should have little effect but could

cause more administrative difficulty for the Board than the present provision. However, he does not object to this provision.

With the exception of the above points, the Chairman has no other comments concerning the bill.

Joint Views of Labor Member, Neil P. Speirs and Management Member, Wythe D. Quarles, Jr.

Mr. Neil P. Speirs, Labor Member of the Board, and Mr. Wythe D. Quarles, Jr., Management Member, are in favor of H.R. 14041.

The bill has the support of railroad labor and the carriers. Representatives of these parties submitted, pursuant to a Congressional directive, the joint recommendations which were the basis of Public Law 93–445 (Title I of which is the Railroad Retirement Act of 1974). H.R. 14041 would make certain technical changes in that public law to insure that its application is consistent with the agreement of the parties who recommended its provisions. One effect of these changes would be that widows could not receive smaller annuities under the Railroad Retirement Act of 1974 than they received as spouses. This result, which was virtually guaranteed under the Railroad Retirement Act of 1937, does not now always occur under the Railroad Retirement Act of 1974. The bill would also provide the Supplemental Account with authority to borrow money from the regular Railroad Retirement Account so that payment of supplemental annuities does not have to be suspended during any period in which the Supplemental Account is temporarily low. Finally, the bill would insure that the term "compensation" receives an interpretation under the Railroad Retirement Tax Act consistent with its interpretation under the Railroad Retirement Act with respect to payments made under a nongovernmental plan for sickness insurance and certain reimbursed expenses associated with traveling. The changes would be made by H.R. 14041 are not substantive and the costs if any would be inconsequential.

Since the bill has the support of railroad labor and management, Mr. Speirs and Mr. Quarles recommend that the bill be given favorable consideration. Because of the short time between the introduction of the bill and the setting up of the hearings, there has been no opportunity to submit this report for clearance to the Office of Management and Budget. Copies of this report are being sent to that office immediately.

Sincerely yours,

R. F. Butler, *Secretary.*

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